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**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
RICHMOND DIVISION**

IN RE:

MICHAEL B. AND NANCY P. PETERSON

CASE NO. 10-30016-DOT

Debtors.

Chapter 7

**TRUSTEE'S MOTION TO SELL PROPERTY OF THE ESTATE  
AND MOTION TO AUTHORIZE PAYMENT OF COMMISSIONS AND EXPENSES TO  
AUCTIONEER FROM SALES PROCEEDS**

Keith L. Phillips (the "Trustee"), Trustee for the Bankruptcy Estate of Michael B. Peterson and Nancy P. Peterson ("Mrs. Peterson," and together, the "Debtors"), by counsel, moves the Court for authority to sell property of the bankruptcy estate pursuant to 11 U.S.C. § 363 and Rule 6004 of the Federal Rules of Bankruptcy Procedure and to pay commissions and expenses to the Trustee's auctioneer from the proceeds of such sale. In support thereof, the Trustee states as follows:

**PARTIES**

1. On January 4, 2010, the Debtors filed for relief under Chapter 7 of the United States Bankruptcy Code in this Court.
2. The Trustee was duly appointed as trustee to the Debtor's bankruptcy estate and continues to serve in that capacity in this case.

### **JURISDICTION**

3. This proceeding is a core proceeding pursuant to 28 U.S.C. § 157.

4. The Court has subject matter and personal jurisdiction over all parties in interest pursuant to 28 U.S.C. § 1334.

### **PROPERTY OF THE ESTATE**

5. Mrs. Peterson owns several burial plots in National Memorial Park located in Fairfax County, Virginia (the “Burial Plots”), and more particularly described as:

Lots 206, 207, 208, 421, 422, 423, 424, Block A, Sites 1-2-3-4 in Each; Lots 835, 836, Block CC, Sites 1-2-3-4 in Each; Lot 626, Block HH, Sites 1-2-3-4 (Burial in Site #1); Lots 834, 835, Block L, Sites 1-2-3-4 in Each.

6. Upon information and belief, there are no liens on the Burial Plots.

7. The value of this type of asset is speculative, however, the Debtors have estimated the value as \$33,500.00 for the Burial Plots on their bankruptcy schedules.

8. Mrs. Peterson’s interest in the Burial Plots constitutes property of the estate pursuant to 11 U.S.C. §541.

### **MOTION FOR AUTHORITY TO SELL AND TO PAY COMMISSIONS**

9. The Trustee seeks authority to sell the Burial Plots free and clear of all liens and interests, including the Debtors’ homestead deed, pursuant to 11 U.S.C. §§ 363(b) and (f) with all liens and interests in the Burial Plots attaching to the net sales proceeds.

10. The Trustee also requests the Court to authorize payment from the sales proceeds at closing any lien that is uncontested, real property taxes or any ordinary closing charges that may be due at the time of closing. If necessary, the Trustee will initiate an Adversary Proceeding to request that the Court determine the extent and priority of liens in the Burial Plots and any net proceeds that may derive from the sale of the Burial Plots.

11. In exercising his business judgment, the Trustee believes that the Burial Plots should be marketed and sold at auction by a professional, experienced auctioneer to obtain the highest and best price for the Burial Plots.

12. The Trustee seeks authority to conduct an auction, by and through Estate Assets LLC d/b/a Caring Transitions (“Auctioneer”), to be scheduled after the Court’s approval of this Motion. Pursuant to this Court’s Order authorizing the employment of the Auctioneer, the Trustee seeks to pay the Auctioneer its commission and expenses from the sale proceeds. The Auctioneer proposes an online absolute auction. The terms of the auction of the Burial Plots will include a buyer’s premium equal to 10% of the highest bid (the “Buyer’s Premium”) and a 5% administration fee to cover costs of credit card processing (“Administration Fee”). Because of the unusual nature of the assets, the Trustee proposes to compensate the Auctioneer by payment of 30% commission from the highest bid before the Buyer’s Premium and Administration Fee from the sale proceeds from the Burial Plots. This commission includes costs associated with marketing the Burial Plots and posting and maintaining the online auction.

13. The Trustee seeks authorization to pay the Auctioneer its commissions as set forth above at closing. The Trustee submits that the compensation and expense arrangements with the Auctioneer are fair and reasonable for marketing and conducting an auction of the Burial Plots.

14. The Trustee further seeks authority to enter into a private sale contract for the Burial Plots prior to the auction, which contract shall be subject to the approval of the Court.

15. The Trustee also seeks authority to postpone, adjourn or call off the auction in which event the Auctioneer shall be entitled to any approved expenses actually incurred by it in preparing for the auction.

**WHEREFORE**, the Trustee requests the Court to (i) authorize the sale of the Burial

Plots as set forth herein; (ii) authorize the payment of commissions and expenses to the Auctioneer from the sale proceeds at closing as set forth herein; and (iii) award any further relief the Court deems proper.

**KEITH L. PHILLIPS, TRUSTEE**

By: /s/ Kimberly A. Pierro  
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### **CERTIFICATE OF SERVICE**

I certify under penalty of perjury that on December 22, 2010, a true and correct copy of this document was served via the Court's ECF system on the debtor's counsel, as well as to all registered participants, which includes the U.S. Trustee, and by first class mail on the debtors as follows:

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